

## **2006 CHANGES TO THE LAW**

### **RELATING TO EXEMPT ORGANIZATIONS**

The following is an excerpt from the Pension Protection Act of 2006, signed August 17, 2006. The excerpt consists of Title XII to the Act in its entirety, which is the portion of the Act that relates to exempt organizations in general.

H. R. 4—284

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### **TITLE XII—PROVISIONS RELATING TO EXEMPT ORGANIZATIONS**

#### **Subtitle A—Charitable Giving Incentives**

##### **SEC. 1201. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

“(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

“(A) IN GENERAL.—So much of the aggregate amount of qualified charitable distributions with respect to a taxpayer made during any taxable year which does not exceed \$100,000 shall not be includible in gross income of such taxpayer for such taxable year.

“(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term ‘qualified charitable distribution’ means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

“(i) which is made directly by the trustee to an organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any fund or account described in section 4966(d)(2)), and

“(ii) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A).

“(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph, a distribution to an organization described in subparagraph (B)(i) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(E) DENIAL OF DEDUCTION.—Qualified charitable distributions which are not includible in gross income pursuant to subparagraph (A) shall not be taken into account in determining the deduction under section 170.

“(F) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.”

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

**“SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

“(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

“(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

“(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

“(A) the amount of the deduction taken under section 642(c) within such year,

“(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

“(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

“(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

“(E) the total income of the trust within such year and the expenses attributable thereto, and

“(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

“(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

“(B) the trust is described in section 4947(a)(1).”.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

“(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

“(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

“(ii) in the case of any trust with gross income in excess of \$250,000, the first sentence of paragraph (1)(A) shall be applied by substituting ‘\$100’ for ‘\$20’, and the second sentence thereof shall be applied by substituting ‘\$50,000’ for ‘\$10,000’, and

“(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.”.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: “In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).”.

(4) CLERICAL AMENDMENT.—The item in the table of sections for subpart A of part III of subchapter A of chapter 61 relating to section 6034 is amended to read as follows:

“Sec. 6034. Returns by certain trusts.”.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2006.

**SEC. 1202. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Section 170(e)(3)(C)(iv) (relating to termination) is amended by striking “2005” and inserting “2007”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 1203. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.**

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

“The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder’s pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 1204. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) IN GENERAL.—Section 170(e)(3)(D)(iv) (relating to termination) is amended by striking “2005” and inserting “2007”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 1205. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

“(E) PARAGRAPH TO APPLY ONLY TO CERTAIN EXCESS PAYMENTS.—

“(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a qualifying specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

“(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

“(I) such excess determined without regard to any amendment or supplement to a return of tax, or

“(II) such excess determined with regard to all such amendments and supplements.

“(iii) QUALIFYING SPECIFIED PAYMENT.—The term ‘qualifying specified payment’ means a specified payment which is made pursuant to—

“(I) a binding written contract in effect on the date of the enactment of this subparagraph, or

“(II) a contract which is a renewal, under substantially similar terms, of a contract described in subclause (I).

“(iv) TERMINATION.—This subparagraph shall not apply to payments received or accrued after December 31, 2007.”.

(b) REPORTING.—

(1) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

“(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

“(2) any loans made to each such controlled entity, and

“(3) any transfers of funds between such controlling organization and each such controlled entity.”.

(2) REPORT TO CONGRESS.—Not later than January 1, 2009, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the Internal Revenue Service in administering the amendments made by subsection (a) and on the extent to which payments by controlled entities (within the meaning of section 512(b)(13) of the Internal Revenue Code of 1986) to controlling organizations (within the meaning of section 512(b)(13) of such Code) meet the requirements under section 482 of such Code. Such report shall include the results of any audit of any controlling organization or controlled entity and recommendations relating to the tax treatment of payments from controlled entities to controlling organizations.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to payments received or accrued after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns the due date (determined without regard to extensions) of which is after the date of the enactment of this Act.

**SEC. 1206. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN  
REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of section 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

“(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

“(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer’s contribution base over the amount of all other charitable contributions allowable under this paragraph.

“(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

“(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

“(iv) SPECIAL RULE FOR CONTRIBUTION OF PROPERTY USED IN AGRICULTURE OR LIVESTOCK PRODUCTION.—

“(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year for which the contribution is made, clause (i) shall be applied by substituting ‘100 percent’ for ‘50 percent’.

“(II) EXCEPTION.—Subclause (I) shall not apply to any contribution of property made after the date of the enactment of this subparagraph which is used in agriculture or livestock production (or available for such production) unless such contribution is subject to a restriction that such property remain available for such production. This subparagraph shall be applied separately with respect to property to which subclause (I) does not apply by reason of the preceding sentence prior to its application to property to which subclause (I) does apply.

“(v) DEFINITION.—For purposes of clause (iv), the term ‘qualified farmer or rancher’ means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer’s gross income for the taxable year.

“(vi) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.”.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

“(2) CORPORATIONS.—In the case of a corporation—

“(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer’s taxable income.

“(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

“(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1))—

“(I) which is made by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(v)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

“(II) which, in the case of contributions made after the date of the enactment of this subparagraph, is a contribution of property which is used in agriculture or livestock production (or available for such production) and which is subject to a restriction that such property remain available for such production,

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer’s taxable income over the amount of charitable contributions allowable under subparagraph (A).

“(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

“(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

“(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

“(i) this section,

“(ii) part VIII (except section 248),

“(iii) any net operating loss carryback to the taxable year under section 172,

“(iv) section 199, and

“(v) any capital loss carryback to the taxable year under section 1212(a)(1).”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 170(d) is amended by striking “subsection (b)(2)” each place it appears and inserting “subsection (b)(2)(A)”.

(2) Section 545(b)(2) is amended by striking “and (D)” and inserting “(D), and (E)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 1207. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.**

(a) EXEMPTION FROM IMPOSITION OF SPECIAL FUELS TAX.—Section 4041(g) (relating to other exemptions) is amended by striking “and” at the end of paragraph (3), by striking the period in paragraph (4) and inserting “; and”, and by inserting after paragraph (4) the following new paragraph:

“(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization’s exclusive use in the collection, storage, or transportation of blood.”.

(b) EXEMPTION FROM MANUFACTURERS EXCISE TAX.—

(1) IN GENERAL.—Section 4221(a) (relating to certain tax-free sales) is amended by striking “or” at the end of paragraph (4), by adding “or” at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

“(6) to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization’s exclusive use in the collection, storage, or transportation of blood.”.

(2) NO EXEMPTION WITH RESPECT TO VACCINES AND RECREATIONAL EQUIPMENT.—Section 4221(a) is amended by adding at the end the following new sentence: “In the case of taxes imposed by subchapter C or D, paragraph (6) shall not apply.”.

(3) CONFORMING AMENDMENTS.—

(A) The second sentence of section 4221(a) is amended by striking “Paragraphs (4) and (5)” and inserting “Paragraphs (4), (5), and (6)”.

(B) Section 6421(c) is amended by striking “or (5)” and inserting “(5), or (6)”.

(c) EXEMPTION FROM COMMUNICATION EXCISE TAX.—

(1) IN GENERAL.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

“(k) EXEMPTION FOR QUALIFIED BLOOD COLLECTOR ORGANIZATIONS.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)(49)) for services or facilities furnished to such organization.”.

(2) CONFORMING AMENDMENT.—Section 4253(l), as redesignated by paragraph (1), is amended by striking “or (j)” and inserting “(j), or (k)”.

(d) EXEMPTION FROM TAX ON HEAVY VEHICLES.—Section 4483 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) EXEMPTION FOR VEHICLES USED IN BLOOD COLLECTION.—

“(1) IN GENERAL.—No tax shall be imposed by section 4481 on the use of any qualified blood collector vehicle by a qualified blood collector organization.



“(2) QUALIFIED BLOOD COLLECTOR VEHICLE.—For purposes of this subsection, the term ‘qualified blood collector vehicle’ means a vehicle at least 80 percent of the use of which during the prior taxable period was by a qualified blood collector organization in the collection, storage, or transportation of blood.

“(3) SPECIAL RULE FOR VEHICLES FIRST PLACED IN SERVICE IN A TAXABLE PERIOD.—In the case of a vehicle first placed in service in a taxable period, a vehicle shall be treated as a qualified blood collector vehicle for such taxable period if such qualified blood collector organization certifies to the Secretary that the organization reasonably expects at least 80 percent of the use of such vehicle by the organization during such taxable period will be in the collection, storage, or transportation of blood.

“(4) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term ‘qualified blood collector organization’ has the meaning given such term by section 7701(a)(49).”.

(e) CREDIT OR REFUND FOR CERTAIN TAXES ON SALES AND SERVICES.—

(1) DEEMED OVERPAYMENT.—

(A) IN GENERAL.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

“(E) sold to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization’s exclusive use in the collection, storage, or transportation of blood;”.

(B) NO CREDIT OR REFUND FOR VACCINES OR RECREATIONAL EQUIPMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: “In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.”.

(C) CONFORMING AMENDMENTS.—Section 6416(b)(2) is amended—

(i) by striking “Subparagraphs (C) and (D)” in the second sentence and inserting “Subparagraphs (C), (D), and (E)”.

(ii) by striking “(B), (C), and (D)” and inserting “(B), (C), (D), and (E)”.

(2) SALES OF TIRES.—Section 6416(b)(4)(B) is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding after clause (ii) the following:

“(iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.”.

(f) DEFINITION OF QUALIFIED BLOOD COLLECTOR ORGANIZATION.—Section 7701(a) is amended by inserting at the end the following new paragraph:

“(49) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term ‘qualified blood collector organization’ means an organization which is—

“(A) described in section 501(c)(3) and exempt from tax under section 501(a),

“(B) primarily engaged in the activity of the collection of human blood,

“(C) registered with the Secretary for purposes of excise tax exemptions, and

“(D) registered by the Food and Drug Administration to collect blood.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 2007.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable periods beginning on or after July 1, 2007.

## **Subtitle B—Reforming Exempt Organizations**

### **PART 1—GENERAL REFORMS**

#### **SEC. 1211. REPORTING ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons), as amended by this Act, is amended by adding at the end the following new section:

#### **“SEC. 6050V. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.**

“(a) IN GENERAL.—Each applicable exempt organization which makes a reportable acquisition shall make the return described in subsection (c).

“(b) TIME FOR MAKING RETURN.—Any applicable exempt organization required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary.

“(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary prescribes,

“(2) contains the name, address, and taxpayer identification number of the applicable exempt organization and the issuer of the applicable insurance contract, and

“(3) contains such other information as the Secretary may prescribe.

“(d) DEFINITIONS.—For purposes of this section—

“(1) REPORTABLE ACQUISITION.—The term ‘reportable acquisition’ means the acquisition by an applicable exempt organization of a direct or indirect interest in any applicable insurance contract in any case in which such acquisition is a part of a structured transaction involving a pool of such contracts.

“(2) APPLICABLE INSURANCE CONTRACT.—

“(A) IN GENERAL.—The term ‘applicable insurance contract’ means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt

organization have directly or indirectly held an interest in the contract (whether or not at the same time).

“(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

“(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

“(ii) the sole interest in the contract of an applicable exempt organization or each person other than an applicable exempt organization is as a named beneficiary, or

“(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

“(I) as a beneficiary of a trust holding an interest in the contract, but only if the person’s designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

“(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in subclause (I) or clause (i) or (ii).

“(3) APPLICABLE EXEMPT ORGANIZATION.—The term ‘applicable exempt organization’ means—

“(A) an organization described in section 170(c),

“(B) an organization described in section 168(h)(2)(A)(iv), or

“(C) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

“(e) TERMINATION.—This section shall not apply to reportable acquisitions occurring after the date which is 2 years after the date of the enactment of this section.”.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

“Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.”.

(b) PENALTIES.—

(1) IN GENERAL.—Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by redesignating clauses (xiv) through (xix) as clauses (xv) through (xx) and by inserting after clause (xiii) the following new clause:

“(xiv) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),”.

(2) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking “or” at the end of subparagraph (B), by striking “and” at the end of subparagraph (C) and inserting “or”, and by adding at the end the following new subparagraph:

“(D) in the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return, and”.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall undertake a study on—

(A) the use by tax exempt organizations of applicable insurance contracts (as defined under section 6050V(d)(2) of the Internal Revenue Code of 1986, as added by subsection (a)) for the purpose of sharing the benefits of the organization's insurable interest in individuals insured under such contracts with investors, and

(B) whether such activities are consistent with the tax exempt status of such organizations.

(2) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary of the Treasury shall report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions of contracts after the date of enactment of this Act.

**SEC. 1212. INCREASE IN PENALTY EXCISE TAXES RELATING TO PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.**

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking “5 percent” and inserting “10 percent”, and

(B) in paragraph (2), by striking “2½ percent” and inserting “5 percent”.

(2) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking “\$10,000” each place it appears in the text and heading thereof and inserting “\$20,000”.

(3) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking “\$10,000” and inserting “\$20,000”.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking “15 percent” and inserting “30 percent”.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking “5 percent” and inserting “10 percent”.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking “5 percent” both places it appears and inserting “10 percent”.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking “\$5,000,” and inserting “\$10,000,” and

(B) by striking “\$10,000.” and inserting “\$20,000.”.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking “10 percent” and inserting “20 percent”, and

(B) in paragraph (2), by striking “2½ percent” and inserting “5 percent”.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking “\$5,000,” and inserting “\$10,000,” and

(B) by striking “\$10,000.” and inserting “\$20,000.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1213. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS IN REGISTERED HISTORIC DISTRICTS AND REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO REHABILITATION CREDIT.**

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

“(i) such interest—

“(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

“(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

“(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

“(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

“(II) has the resources to manage and enforce the restriction and a commitment to do so, and

“(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer’s return for the taxable year of the contribution—

“(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

“(II) photographs of the entire exterior of the building, and

“(III) a description of all restrictions on the development of the building.”.

(b) **DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.**—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

- (1) by striking “any building, structure, or land area which”,
- (2) by inserting “any building, structure, or land area which” before “is listed” in clause (i), and
- (3) by inserting “any building which” before “is located” in clause (ii).

(c) **FILING FEE FOR CERTAIN CONTRIBUTIONS.**—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

“(13) **CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.**—

“(A) **IN GENERAL.**—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a \$500 filing fee.

“(B) **CONTRIBUTION DESCRIBED.**—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of \$10,000.

“(C) **DEDICATION OF FEE.**—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).”.

(d) **REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO THE REHABILITATION CREDIT.**—Subsection (f) of section 170, as amended by subsection (c), is amended by adding at the end the following new paragraph:

“(14) **REDUCTION FOR AMOUNTS ATTRIBUTABLE TO REHABILITATION CREDIT.**—In the case of any qualified conservation contribution (as defined in subsection (h)), the amount of the deduction allowed under this section shall be reduced by an amount which bears the same ratio to the fair market value of the contribution as—

“(A) the sum of the credits allowed to the taxpayer under section 47 for the 5 preceding taxable years with respect to any building which is a part of such contribution, bears to

“(B) the fair market value of the building on the date of the contribution.”.

(e) **EFFECTIVE DATES.**—

(1) **SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.**—The amendments made by subsection (a) shall apply to contributions made after July 25, 2006.

(2) **DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND; REDUCTION FOR REHABILITATION CREDIT.**—The amendments made by subsections (b) and (d) shall apply to contributions made after the date of the enactment of this Act.

(3) **FILING FEE.**—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

**SEC. 1214. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.**

(a) **DENIAL OF LONG-TERM CAPITAL GAIN.**—Subparagraph (B) of section 170(e)(1) is amended by striking “or” at the end of clause (ii), by inserting “or” at the end of clause (iii), and by inserting after clause (iii) the following new clause:

“(iv) of any taxidermy property which is contributed by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting.”.

(b) **TREATMENT OF BASIS.**—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

“(15) **SPECIAL RULE FOR TAXIDERMY PROPERTY.**—

“(A) **BASIS.**—For purposes of this section and notwithstanding section 1012, in the case of a charitable contribution of taxidermy property which is made by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting, only the cost of the preparing, stuffing, or mounting shall be included in the basis of such property.

“(B) **TAXIDERMY PROPERTY.**—For purposes of this section, the term ‘taxidermy property’ means any work of art which—

“(i) is the reproduction or preservation of an animal, in whole or in part,

“(ii) is prepared, stuffed, or mounted for purposes of recreating one or more characteristics of such animal, and

“(iii) contains a part of the body of the dead animal.”.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made after July 25, 2006.

**SEC. 1215. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.**

(a) **RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.**—

(1) **IN GENERAL.**—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

“(i) of tangible personal property—

“(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

“(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D).”.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

“(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

“(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

“(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

“(ii) the donor’s basis in such property at the time such property was contributed.

“(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term ‘applicable disposition’ means any sale, exchange, or other disposition by the donee of applicable property—

“(i) after the last day of the taxable year of the donor in which such property was contributed, and

“(ii) before the last day of the 3-year period beginning on the date of the contribution of such property, unless the donee makes a certification in accordance with subparagraph (D).

“(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term ‘applicable property’ means charitable deduction property (as defined in section 6050L(a)(2)(A))—

“(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee’s exemption under section 501, and

“(ii) for which a deduction in excess of the donor’s basis is allowed.

“(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

“(i) which—

“(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee’s exemption under section 501, and

“(II) describes how the property was used and how such use furthered such purpose or function, or

“(ii) which—

“(I) states the intended use of the property by the donee at the time of the contribution, and

“(II) certifies that such intended use has become impossible or infeasible to implement.”.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking “2 years” and inserting “3 years”, and



(2) by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

“(F) a description of the donee’s use of the property, and

“(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee’s exemption under section 501. In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(7)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is made under section 170(e)(7).”.

(c) **PENALTY.**—

(1) **IN GENERAL.**—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6720A the following new section:

**“SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.**

“In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee’s exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of \$10,000.”.

(2) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

“Sec. 6720B. Fraudulent identification of exempt use property.”.

(d) **EFFECTIVE DATE.**—

(1) **RECAPTURE.**—The amendments made by subsection (a) shall apply to contributions after September 1, 2006.

(2) **REPORTING.**—The amendments made by subsection (b) shall apply to returns filed after September 1, 2006.

(3) **PENALTY.**—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

**SEC. 1216. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**

(a) **IN GENERAL.**—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) **CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**—

“(A) **IN GENERAL.**—In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of clothing or a household item unless such clothing or household item is in good used condition or better.

“(B) **ITEMS OF MINIMAL VALUE.**—Notwithstanding subparagraph (A), the Secretary may by regulation deny a deduction under subsection (a) for any contribution of

clothing or a household item which has minimal monetary value.

“(C) EXCEPTION FOR CERTAIN PROPERTY.—Subparagraphs (A) and (B) shall not apply to any contribution of a single item of clothing or a household item for which a deduction of more than \$500 is claimed if the taxpayer includes with the taxpayer’s return a qualified appraisal with respect to the property.

“(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘household items’ includes furniture, furnishings, electronics, appliances, linens, and other similar items.

“(ii) EXCLUDED ITEMS.—Such term does not include—

“(I) food,

“(II) paintings, antiques, and other objects of art,

“(III) jewelry and gems, and

“(IV) collections.

“(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of enactment of this Act.

**SEC. 1217. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.**

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

“(17) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

**SEC. 1218. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.**

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) SPECIAL RULES FOR FRACTIONAL GIFTS.—

“(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

“(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer’s entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

“(i) the taxpayer, or

“(ii) the taxpayer and the donee.

“(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

“(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

“(A) the fair market value of the property at the time of the initial fractional contribution, or

“(B) the fair market value of the property at the time of the additional contribution.

“(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

“(A) RECAPTURE.—The Secretary shall provide for the recapture of the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer’s entire interest in tangible personal property—

“(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

“(I) the date that is 10 years after the date of the initial fractional contribution, or

“(II) the date of the death of the donor, and

“(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

“(I) had substantial physical possession of the property, and

“(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations’ exemption under section 501.

“(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) ADDITIONAL CONTRIBUTION.—The term ‘additional contribution’ means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

“(B) INITIAL FRACTIONAL CONTRIBUTION.—The term ‘initial fractional contribution’ means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer’s entire interest in any tangible personal property.”.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) VALUATION OF SUBSEQUENT GIFTS.—

“(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

“(A) the fair market value of the property at the time of the initial fractional contribution, or

“(B) the fair market value of the property at the time of the additional contribution.

“(2) DEFINITIONS.—For purposes of this paragraph—

“(A) ADDITIONAL CONTRIBUTION.—The term ‘additional contribution’ means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

“(B) INITIAL FRACTIONAL CONTRIBUTION.—The term ‘initial fractional contribution’ means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent’s entire interest in any tangible personal property for which a deduction was allowed under section 170.”

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

“(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

“(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer’s entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

“(i) the taxpayer, or

“(ii) the taxpayer and the donee.

“(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

“(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

“(A) the fair market value of the property at the time of the initial fractional contribution, or

“(B) the fair market value of the property at the time of the additional contribution.

“(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

“(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer’s entire interest in tangible personal property—

“(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

“(I) the date that is 10 years after the date of the initial fractional contribution, or

“(II) the date of the death of the donor, and

“(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

“(I) had substantial physical possession of the property, and

“(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations’ exemption under section 501.

“(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) ADDITIONAL CONTRIBUTION.—The term ‘additional contribution’ means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

“(B) INITIAL FRACTIONAL CONTRIBUTION.—The term ‘initial fractional contribution’ means, with respect to any donor, the first gift of an undivided portion of the donor’s entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

#### **SEC. 1219. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS.**

(a) MODIFICATION OF THRESHOLDS FOR SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS.—

(1) SUBSTANTIAL VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Subparagraph (A) of section 6662(e)(1) (relating to substantial valuation misstatement under chapter 1) is amended by striking “200 percent” and inserting “150 percent”.

(B) ESTATE AND GIFT TAXES.—Paragraph (1) of section 6662(g) is amended by striking “50 percent” and inserting “65 percent”.

(2) GROSS VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Clauses (i) and (ii) of section 6662(h)(2)(A) (relating to increase in penalty in case of gross valuation misstatements) are amended to read as follows:

“(i) in paragraph (1)(A), ‘200 percent’ for ‘150 percent’;

“(ii) in paragraph (1)(B)(i)—

“(I) ‘400 percent’ for ‘200 percent’, and

“(II) ‘25 percent’ for ‘50 percent’, and”.

(B) ESTATE AND GIFT TAXES.—Subparagraph (C) of section 6662(h)(2) is amended by striking “25 percent” for “50 percent” and inserting “40 percent” for “65 percent”.

(3) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking “paragraph (1) shall not apply unless” and inserting “paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if”.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

**“SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.**

“(a) IMPOSITION OF PENALTY.—If—

“(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

“(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property, then such person shall pay a penalty in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

“(1) the greater of—

“(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

“(B) \$1,000, or

“(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

“(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.”.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking “6694 and 6695” each place it appears in the text and heading thereof and inserting “6694, 6695, and 6695A”, and

(B) by striking “6694 or 6695” each place it appears in the text and inserting “6694, 6695, or 6695A”.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

“Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.

“Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.”.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

“(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

“(i) QUALIFIED APPRAISAL.—The term ‘qualified appraisal’ means, with respect to any property, an appraisal of such property which—

“(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

“(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

“(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term ‘qualified appraiser’ means an individual who—

“(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

“(II) regularly performs appraisals for which the individual receives compensation, and

“(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

“(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

“(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

“(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.”.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

“(B) QUALIFIED APPRAISAL.—The term ‘qualified appraisal’ has the meaning given such term by section 170(f)(11)(E)(i).

“(C) QUALIFIED APPRAISER.—The term ‘qualified appraiser’ has the meaning given such term by section 170(f)(11)(E)(ii).”.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking “with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986”.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and

(d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after July 25, 2006.

**SEC. 1220. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.**

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

“(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

“(A) The organization—

“(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

“(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

“(iii) provides services for the purpose of improving a consumer’s credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

“(iv) does not charge any separately stated fee for services for the purpose of improving any consumer’s credit record, credit history, or credit rating.

“(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

“(C) The organization establishes and implements a fee policy which—

“(i) requires that any fees charged to a consumer for services are reasonable,

“(ii) allows for the waiver of fees if the consumer is unable to pay, and

“(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer’s debt, the consumer’s payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

“(D) At all times the organization has a board of directors or other governing body—



“(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

“(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization’s activities (other than through the receipt of reasonable directors’ fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

“(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization’s activities (other than through the receipt of reasonable directors’ fees).

“(E) The organization does not own more than 35 percent of—

“(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

“(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

“(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

“(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

“(2) ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(3).—

“(A) IN GENERAL.—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

“(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

“(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

“(B) APPLICABLE PERCENTAGE.—

“(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

“(ii) TRANSITION RULE.—Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is—

“(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

“(II) 70 percent for the second such taxable year beginning after such date, and

“(III) 60 percent for the third such taxable year beginning after such date.

“(3) ADDITIONAL REQUIREMENT FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

“(4) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

“(A) CREDIT COUNSELING SERVICES.—The term ‘credit counseling services’ means—

“(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

“(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

“(iii) a combination of the activities described in clauses (i) and (ii).

“(B) DEBT MANAGEMENT PLAN SERVICES.—The term ‘debt management plan services’ means services related to the repayment, consolidation, or restructuring of a consumer’s debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.”

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

“(j) DEBT MANAGEMENT PLAN SERVICES.—The term ‘unrelated trade or business’ includes the provision of debt management plan

services (as defined in section 501(q)(4)(B)) by any organization other than an organization which meets the requirements of section 501(q).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

**SEC. 1221. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.**

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: “Such term shall also include income from sources similar to those in the preceding sentence.”.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: “Such term shall also include income from sources similar to those in the preceding sentence.”.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking “used for the production of interest, dividends, rents, and royalties” and inserting “used for the production of gross investment income (as defined in paragraph (2))”,

(2) in subparagraph (C), by inserting “or carrybacks” after “carryovers”, and

(3) by adding at the end the following new subparagraph:

“(D) Except to the extent provided by regulation, under rules similar to the rules of section 1031 (including the exception under subsection (a)(2) thereof), no gain or loss shall be taken into account with respect to any portion of property used for a period of not less than 1 year for a purpose or function constituting the basis of the private foundation’s exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for a purpose or function constituting the basis for such foundation’s exemption.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1222. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.**

Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.”.

**SEC. 1223. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

“(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

“(A) the legal name of the organization,

“(B) any name under which such organization operates or does business,

“(C) the organization’s mailing address and Internet web site address (if any),

“(D) the organization’s taxpayer identification number,

“(E) the name and address of a principal officer, and

“(F) evidence of the continuing basis for the organization’s exemption from the filing requirements under subsection (a)(1), and

“(2) upon the termination of the existence of the organization, shall furnish notice of such termination.”.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

“(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization’s status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

“(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

“(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause

for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.”.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

“(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).”.

(d) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

“(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).”.

(e) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize, in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under subsection (a)(1) or (i) of section 6033 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2006.

**SEC. 1224. DISCLOSURE TO STATE OFFICIALS RELATING TO EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

“(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

“(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

“(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

“(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

“(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

“(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

“(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

“(i) upon written request by an appropriate State officer, and

“(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

“(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such returns or return information may constitute evidence of noncompliance under the laws within the jurisdiction of the appropriate State officer.

“(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of any organization described in section 501(c) (other than organizations described in paragraph (1) or (3) thereof) for the purpose of, and only to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

“(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

“(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) RETURN AND RETURN INFORMATION.—The terms ‘return’ and ‘return information’ have the respective meanings given to such terms by section 6103(b).

“(B) APPROPRIATE STATE OFFICER.—The term ‘appropriate State officer’ means—

“(i) the State attorney general,

“(ii) the State tax officer,

“(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

“(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6103(a) is amended by inserting “or section 6104(c)” after “this section”.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting “and section 6104(c)” after “section” in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting “, any appropriate State officer (as defined in section 6104(c)),” before “or any other person”,

(B) in subparagraph (F)(i), by inserting “any appropriate State officer (as defined in section 6104(c)),” before “or any other person”, and

(C) in the matter following subparagraph (F), by inserting “, an appropriate State officer (as defined in section 6104(c)),” after “including an agency” each place it appears.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting “FOR CHARITABLE ORGANIZATIONS” after “RULE”.

(5) Paragraph (2) of section 7213(a) is amended by inserting “or under section 6104(c)” after “6103”.

(6) Paragraph (2) of section 7213A(a) is amended by inserting “or under section 6104(c)” after “7213(a)(2)”.

(7) Paragraph (2) of section 7431(a) is amended by inserting “or in violation of section 6104(c)” after “6103”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

**SEC. 1225. PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME TAX RETURNS.**

(a) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

“(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such

organization, but only if such organization is described in section 501(c)(3),”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

**SEC. 1226. STUDY ON DONOR ADVISED FUNDS AND SUPPORTING ORGANIZATIONS.**

(a) STUDY.—The Secretary of the Treasury shall undertake a study on the organization and operation of donor advised funds (as defined in section 4966(d)(2) of the Internal Revenue Code of 1986, as added by this Act) and of organizations described in section 509(a)(3) of such Code. The study shall specifically consider—

(1) whether the deductions allowed for the income, gift, or estate taxes for charitable contributions to sponsoring organizations (as defined in section 4966(d)(1) of such Code, as added by this Act) of donor advised funds or to organizations described in section 509(a)(3) of such Code are appropriate in consideration of—

(A) the use of contributed assets (including the type, extent, and timing of such use), or

(B) the use of the assets of such organizations for the benefit of the person making the charitable contribution (or a person related to such person),

(2) whether donor advised funds should be required to distribute for charitable purposes a specified amount (whether based on the income or assets of the fund) in order to ensure that the sponsoring organization with respect to such donor advised fund is operating consistent with the purposes or functions constituting the basis for its exemption under section 501, or its status as an organization described in section 509(a), of such Code,

(3) whether the retention by donors to organizations described in paragraph (1) of rights or privileges with respect to amounts transferred to such organizations (including advisory rights or privileges with respect to the making of grants or the investment of assets) is consistent with the treatment of such transfers as completed gifts that qualify for a deduction for income, gift, or estate taxes, and

(4) whether the issues raised by paragraphs (1), (2), and (3) are also issues with respect to other forms of charities or charitable donations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under subsection (a) and make such recommendations as the Secretary of the Treasury considers appropriate.

**PART 2—IMPROVED ACCOUNTABILITY OF  
DONOR ADVISED FUNDS**

**SEC. 1231. EXCISE TAXES RELATING TO DONOR ADVISED FUNDS.**

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by the



Tax Increase Prevention and Reconciliation Act of 2005, is amended by adding at the end the following new subchapter:

**“Subchapter G—Donor Advised Funds**

“Sec. 4966. Taxes on taxable distributions.

“Sec. 4967. Taxes on prohibited benefits.

**“SEC. 4966. TAXES ON TAXABLE DISTRIBUTIONS.**

“(a) IMPOSITION OF TAXES.—

“(1) ON THE SPONSORING ORGANIZATION.—There is hereby imposed on each taxable distribution a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the sponsoring organization with respect to the donor advised fund.

“(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

“(b) SPECIAL RULES.—For purposes of subsection (a)—

“(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

“(2) LIMIT FOR MANAGEMENT.—With respect to any one taxable distribution, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.

“(c) TAXABLE DISTRIBUTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘taxable distribution’ means any distribution from a donor advised fund—

“(A) to any natural person, or

“(B) to any other person if—

“(i) such distribution is for any purpose other than one specified in section 170(c)(2)(B), or

“(ii) the sponsoring organization does not exercise expenditure responsibility with respect to such distribution in accordance with section 4945(h).

“(2) EXCEPTIONS.—Such term shall not include any distribution from a donor advised fund—

“(A) to any organization described in section 170(b)(1)(A) (other than a disqualified supporting organization),

“(B) to the sponsoring organization of such donor advised fund, or

“(C) to any other donor advised fund.

“(d) DEFINITIONS.—For purposes of this subchapter—

“(1) SPONSORING ORGANIZATION.—The term ‘sponsoring organization’ means any organization which—

“(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof),

“(B) is not a private foundation (as defined in section 509(a)), and

“(C) maintains 1 or more donor advised funds.

“(2) DONOR ADVISED FUND.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term ‘donor advised fund’ means a fund or account—

“(i) which is separately identified by reference to contributions of a donor or donors,

“(ii) which is owned and controlled by a sponsoring organization, and

“(iii) with respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor’s status as a donor.

“(B) EXCEPTIONS.—The term ‘donor advised fund’ shall not include any fund or account—

“(i) which makes distributions only to a single identified organization or governmental entity, or

“(ii) with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, if—

“(I) such person’s advisory privileges are performed exclusively by such person in the person’s capacity as a member of a committee all of the members of which are appointed by the sponsoring organization,

“(II) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

“(III) all grants from such fund or account are awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the board of directors of the sponsoring organization, and such procedure is designed to ensure that all such grants meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

“(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account not described in subparagraph (B) from treatment as a donor advised fund—

“(i) if such fund or account is advised by a committee not directly or indirectly controlled by the donor or any person appointed or designated by the donor for the purpose of advising with respect to distributions from such fund (and any related parties), or

“(ii) if such fund benefits a single identified charitable purpose.

“(3) FUND MANAGER.—The term ‘fund manager’ means, with respect to any sponsoring organization—

“(A) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

“(B) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

“(4) DISQUALIFIED SUPPORTING ORGANIZATION.—

“(A) IN GENERAL.—The term ‘disqualified supporting organization’ means, with respect to any distribution—

“(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

“(ii) any organization which is described in subparagraph (B) or (C) if—

“(I) the donor or any person designated by the donor for the purpose of advising with respect to distributions from a donor advised fund (and any related parties) directly or indirectly controls a supported organization (as defined in section 509(f)(3)) of such organization, or

“(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate.

“(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—

An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

“(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

“(ii) supervised or controlled in connection with one or more such organizations.

“(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).

“SEC. 4967. TAXES ON PROHIBITED BENEFITS.

“(a) IMPOSITION OF TAXES.—

“(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—

There is hereby imposed on the advice of any person described in subsection (d) to have a sponsoring organization make a distribution from a donor advised fund which results in such person or any other person described in subsection (d) receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 125 percent of such benefit. The tax imposed by this paragraph shall be paid by any person described in subsection (d) who advises as to the distribution or who receives such a benefit as a result of the distribution.

“(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such benefit. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

“(b) EXCEPTION.—No tax shall be imposed under this section with respect to any distribution if a tax has been imposed with respect to such distribution under section 4958.

“(c) SPECIAL RULES.—For purposes of subsection (a)—

“(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under paragraph (1) or (2) of subsection (a) with respect to a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

“(2) LIMIT FOR MANAGEMENT.—With respect to any one distribution described in subsection (a), the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.

“(d) PERSON DESCRIBED.—A person is described in this subsection if such person is described in section 4958(f)(7) with respect to a donor advised fund.”

(b) CONFORMING AMENDMENTS.—

(1) Section 4963 is amended by inserting “4966, 4967,” after “4958,” each place it appears in subsections (a) and (c).

(2) The table of subchapters for chapter 42 is amended by adding at the end the following new item:

“SUBCHAPTER G—DONOR ADVISED FUNDS”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1232. EXCESS BENEFIT TRANSACTIONS INVOLVING DONOR ADVISED FUNDS AND SPONSORING ORGANIZATIONS.**

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding after subparagraph (C) the following new subparagraphs:

“(D) which involves a donor advised fund (as defined in section 4966(d)(2)), any person who is described in paragraph (7) with respect to such donor advised fund (as so defined), and

“(E) which involves a sponsoring organization (as defined in section 4966(d)(1)), any person who is described in paragraph (8) with respect to such sponsoring organization (as so defined).”.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraphs:

“(7) DONORS AND DONOR ADVISORS.—For purposes of paragraph (1)(E), a person is described in this paragraph if such person—

“(A) is described in section 4966(d)(2)(A)(iii),

“(B) is a member of the family of an individual described in subparagraph (A), or

“(C) is a 35-percent controlled entity (as defined in paragraph (3) by substituting ‘persons described in subparagraph (A) or (B) of paragraph (7)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof).

“(8) INVESTMENT ADVISORS.—For purposes of paragraph (1)(F)—

“(A) IN GENERAL.—A person is described in this paragraph if such person—

“(i) is an investment advisor,

“(ii) is a member of the family of an individual described in clause (i), or

“(iii) is a 35-percent controlled entity (as defined in paragraph (3) by substituting ‘persons described in clause (i) or (ii) of paragraph (8)(A)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof).

“(B) INVESTMENT ADVISOR DEFINED.—For purposes of subparagraph (A), the term ‘investment advisor’ means, with respect to any sponsoring organization (as defined in section 4966(d)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4966(d)(2)) owned by such organization.”.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULES FOR DONOR ADVISED FUNDS.—In the case of any donor advised fund (as defined in section 4966(d)(2))—

“(A) the term ‘excess benefit transaction’ includes any grant, loan, compensation, or other similar payment from such fund to a person described in subsection (f)(7) with respect to such fund, and

“(B) the term ‘excess benefit’ includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other similar payment.”.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting “, except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in any donor advised fund” after “standards”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

**SEC. 1233. EXCESS BUSINESS HOLDINGS OF DONOR ADVISED FUNDS.**

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

“(e) APPLICATION OF TAX TO DONOR ADVISED FUNDS.—

“(1) IN GENERAL.—For purposes of this section, a donor advised fund (as defined in section 4966(d)(2)) shall be treated as a private foundation.

“(2) DISQUALIFIED PERSON.—In applying this section to any donor advised fund (as so defined), the term ‘disqualified person’ means, with respect to the donor advised fund, any person who is—

“(A) described in section 4966(d)(2)(A)(iii),

“(B) a member of the family of an individual described in subparagraph (A), or

“(C) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ‘persons described in subparagraph (A) or (B) of section 4943(e)(2)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof).

“(3) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to donor advised funds (as so defined), except that—

“(A) ‘the date of the enactment of this subsection’ shall be substituted for ‘May 26, 1969’ each place it appears in paragraphs (4), (5), and (6), and

“(B) ‘January 1, 2007’ shall be substituted for ‘January 1, 1970’ in paragraph (4)(E).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1234. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.**

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(18) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

“(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

“(i) described in paragraph (3), (4), or (5) of subsection (c), or

“(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

“(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.”.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

“(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

“(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

“(i) described in paragraph (3) or (4) of subsection (a), or

“(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

“(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the

rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.”.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

“(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

“(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

“(i) described in paragraph (3) or (4) of subsection (a), or

“(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

“(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

**SEC. 1235. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

“(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

“(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

“(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

“(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4966(d)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section

4966(d)(2)) and the manner in which such organization plans to operate such funds.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

### **PART 3—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS**

#### **SEC. 1241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.**

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

“(B) is—

“(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

“(ii) supervised or controlled in connection with one or more such organizations, or

“(iii) operated in connection with one or more such organizations, and”.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

“(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

“(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

“(A) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

“(B) FOREIGN SUPPORTED ORGANIZATIONS.—

“(i) IN GENERAL.—The organization is not operated in connection with any supported organization that is not organized in the United States.

“(ii) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with an organization that is not organized in the United States on the date of the enactment of this subsection, clause (i) shall not apply until the first day of the third taxable year of the organization beginning after the date of the enactment of this subsection.

“(2) ORGANIZATIONS CONTROLLED BY DONORS.—

“(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

“(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

“(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a), if such organization accepts any gift or contribution from any person described in subparagraph (B).

“(B) PERSON DESCRIBED.—A person is described in this subparagraph if, with respect to a supported organization



of an organization described in subparagraph (A), such person is—

“(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who directly or indirectly controls, either alone or together with persons described in clauses (ii) and (iii), the governing body of such supported organization,

“(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

“(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ‘persons described in clause (i) or (ii) of section 509(f)(2)(B)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof).

“(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term ‘supported organization’ means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

“(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

“(B) with respect to which the organization performs the functions of, or carries out the purposes of.”.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

(d) PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations.

(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms “type III supporting organization” and “functionally integrated type III supporting organization” have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) shall take effect—

(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

(B) in the case of any other trust, on the date of the enactment of this Act.

**SEC. 1242. EXCESS BENEFIT TRANSACTIONS INVOLVING SUPPORTING ORGANIZATIONS.**

(a) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by adding after subparagraph (C) the following new subparagraph:

“(D) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) and organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.”.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

“(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

“(i) the term ‘excess benefit transaction’ includes—

“(I) any grant, loan, compensation, or other similar payment provided by such organization to a person described in subparagraph (B), and

“(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

“(ii) the term ‘excess benefit’ includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other similar payment.

“(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

“(i) a substantial contributor to such organization,

“(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

“(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ‘persons described in clause (i) or (ii) of section 4958(c)(3)(B)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof).

“(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘substantial contributor’ means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the

organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust. Rules similar to the rules of subparagraphs (B) and (C) of section 507(d)(2) shall apply for purposes of this subparagraph.

“(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).”.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transactions occurring after July 25, 2006.

**SEC. 1243. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.**

(a) IN GENERAL.—Section 4943, as amended by this Act, is amended by adding at the end the following new subsection:

“(f) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

“(1) IN GENERAL.—For purposes of this section, an organization which is described in paragraph (3) shall be treated as a private foundation.

“(2) EXCEPTION.—The Secretary may exempt the excess business holdings of any organization from the application of this subsection if the Secretary determines that such holdings are consistent with the purpose or function constituting the basis for its exemption under section 501.

“(3) ORGANIZATIONS DESCRIBED.—An organization is described in this paragraph if such organization is—

“(A) a type III supporting organization (other than a functionally integrated type III supporting organization), or

“(B) an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

“(4) DISQUALIFIED PERSON.—

“(A) IN GENERAL.—In applying this section to any organization described in paragraph (3), the term ‘disqualified person’ means, with respect to the organization—

“(i) any person who was, at any time during the 5-year period ending on the date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

“(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

“(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ‘persons described

in clause (i) or (ii) of section 4943(f)(4)(A)’ for ‘persons described in subparagraph (A) or (B) of paragraph (1)’ in subparagraph (A)(i) thereof,

“(iv) any person described in section 4958(c)(3)(B), and

“(v) any organization—

“(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

“(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of the family (within the meaning of section 4946(d)) of such a person.

“(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

“(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

“(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those of the officers, directors, or trustees of the organization), or

“(iii) an owner of more than 20 percent of—

“(I) the total combined voting power of a corporation,

“(II) the profits interest of a partnership, or

“(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

“(5) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of this subsection—

“(A) TYPE III SUPPORTING ORGANIZATION.—The term ‘type III supporting organization’ means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

“(B) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—The term ‘functionally integrated type III supporting organization’ means a type III supporting organization which is not required under regulations established by the Secretary to make payments to supported organizations (as defined under section 509(f)(3)) due to the activities of the organization related to performing the functions of, or carrying out the purposes of, such supported organizations.

“(6) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term ‘excess business holdings’ shall not include any holdings of a type III supporting organization in any business enterprise if, as of November 18, 2005, the holdings were held (and at all times thereafter, are held) for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over such organization.

“(7) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

“(A) ‘the date of the enactment of this subsection’ shall be substituted for ‘May 26, 1969’ each place it appears in paragraphs (4), (5), and (6), and

“(B) ‘January 1, 2007’ shall be substituted for ‘January 1, 1970’ in paragraph (4)(E).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1244. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

“(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—

“(A) IN GENERAL.—For purposes of this section, the term ‘qualifying distribution’ shall not include any amount paid by a private foundation which is not an operating foundation to—

“(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

“(ii) any organization which is described in subparagraph (B) or (C) if—

“(I) a disqualified person of the private foundation directly or indirectly controls such organization or a supported organization (as defined in section 509(f)(3)) of such organization, or

“(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate.

“(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

“(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

“(ii) supervised or controlled in connection with one or more such organizations.

“(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).”.

(b) TAXABLE EXPENDITURES.—Subparagraph (A) of section 4945(d)(4) is amended to read as follows:

“(A) such organization—

“(i) is described in paragraph (1) or (2) of section 509(a),

“(ii) is an organization described in section 509(a)(3) (other than an organization described in clause (i) or (ii) of section 4942(g)(4)(A)), or

“(iii) is an exempt operating foundation (as defined in section 4940(d)(2)), or”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

**SEC. 1245. RETURNS OF SUPPORTING ORGANIZATIONS.**

(a) **REQUIREMENT TO FILE RETURN.**—Subparagraph (B) of section 6033(a)(3) is amended by inserting “(other than an organization described in section 509(a)(3))” after “paragraph (1)”.

(b) **MATTERS INCLUDED ON RETURNS.**—Section 6033, as amended by this Act, is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

“(l) **ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.**—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

“(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

“(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

“(3) certify that the organization meets the requirements of section 509(a)(3)(C).”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

## TITLE XIII—OTHER PROVISIONS

**SEC. 1301. TECHNICAL CORRECTIONS RELATING TO MINE SAFETY.**

Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820), as amended by the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236), is amended—

(1) by striking subsection (d); and

(2) in subsection (a)—

(A) by striking “(1)(1) The operator” and inserting “(1) The operator”;

(B) in the paragraph (2) added by section 8(a)(1)(B) of the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236)—

(i) by striking “paragraph (1)” and inserting “subsection (a)(1)”; and

(ii) by redesignating such paragraph as subsection (d) and transferring such subsection so as to appear after subsection (c); and

(3) in subsection (b)—

(A) by striking “Any operator” and inserting “(1) Any operator”; and

(B) in the second sentence, as added by section 8(a)(2) of the Mine Improvement and New Emergency Response